

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ORDER

Petitioner filed the present habeas corpus action challenging the constitutionality of his state court convictions. Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Shon T. Erwin who entered a Report and Recommendation (“R&R”) on August 25, 2022, recommending the Petition be dismissed for failure to comply with an Order of the Court. Petitioner did not object to the R&R and on September 20, 2022, the Court adopted the R&R. Petitioner has now filed “Movant’s Motion from Relief Judgment Pursuant to Fed. R. Civ. P. 60(b)(4),” arguing the previous judgment is void.

The Tenth Circuit has “adopted a firm waiver rule that provides that the failure to make timely objections to the magistrate [judge’s] findings or recommendations waives appellate review of both factual and legal questions.” United States v. One Parcel of Real Prop., 73 F.3d 1057, 1059 (10th Cir. 1996) (internal quotation marks omitted). Thus, Petitioner’s Rule 60 Motion will be denied. Moreover, in case CIV-22-27, the Court

imposed filing restrictions on Petitioner. In filing the present action, he has failed to comply with those restrictions and his case is subject to dismissal for that reason as well.

For the reasons set forth herein, Petitioner's "Movant's Motion from Relief Judgment Pursuant to Fed. R. Civ. P. 60(b)(4) Where the Previous Judgment Is Void (Dkt. No. 11), is DENIED

IT IS SO ORDERED this 29th day of November 2022.



ROBIN J. CAUTHRON
United States District Judge